

Toward a Conceptual Framework for Trauma-Informed Practice in Juvenile and Family Courts

By Shawn C. Marsh, Ph.D. and Carly B. Dierkhising, MA

Trauma, trauma, trauma. Everywhere one turns today, trauma-informed practice is the hot issue for juvenile and family courts. Indeed, one of the most frequent requests for training received by the NCJFCJ over the last several years involves trauma or trauma-related topics. Since the start of 2013 alone, NCJFCJ staff has provided trauma-related training to over 1000 juvenile and family court professionals across the country. Together with partners such as the National Child Traumatic Stress Network (NCTSN), the NCJFCJ stands ready to assist juvenile and family courts to become trauma-informed.

THE DEBATE

While the level of interest in trauma by juvenile and family courts should be considered a success by trauma experts, important questions remain regarding the definition and scope of trauma-informed practice. In relation to these courts, the question has become: to what degree are juvenile and family courts responsible for identifying and considering trauma as a part of case processing? More importantly, what is actually meant by trauma-informed practice in juvenile courts? Based on recent meetings between social scientists and justice professionals – such as the convening held by the Juvenile Law Center in Philadelphia earlier this year – it seems safe to say there is no consensus on the answers to these questions. Rather, it is clear there remains substantial debate regarding the definition of trauma-informed justice, how and to what extent information on adverse experiences should be used, and what our understanding of toxic stress means specifically for juvenile court policy and practice.

A PUBLIC HEALTH APPROACH

Much of what we know about the long term impact of trauma on child and adult development, including involvement in justice systems, is best understood and applied through a public health approach. Put

simply, early adversity puts children at risk for later involvement in the juvenile and criminal justice systems and ultimately poorer health outcomes later in life. With this trajectory in mind there are steps courts can take to better serve those that become system-involved. First, moving from a “sick – well” or “victim – offender” dichotomy to one of viewing those appearing in court as “injured” in some manner begins to change the landscape of how we view and respond to children and adults who become system-involved. This shift in how we view people in crisis reflects core values of a public health perspective which emphasizes health and well-being, and subsequently reframes what responses are likely to be most effective in promoting healing and recovery. Through the public health lens, when one views those appearing before the court as almost always injured in some way, a universal precautions approach then becomes necessary in our work.

What is a universal precautions approach to trauma? Similar to the policies and practices that emerged in response to HIV/AIDS whereby everyone was assumed to have the disease when blood exposure was a factor, a universal precautions approach to trauma assumes that people appearing in courts have experienced adversity in some manner. Thus the focus becomes ensuring environments are sensitive to limiting unnecessary arousal (e.g., reducing stress), practices reflect

an understanding of trauma triggers (e.g., well-designed security procedures), and policies are designed to help promote healing (e.g., screening and treatment). Inherent to this approach is that those that are not injured still benefit from the focus on safety and well-being that is instilled in trauma-informed court environments.

A CONCEPTUAL FRAMEWORK

Together with efforts to better define trauma-informed juvenile courts and what it means for environments, practice, and policies, there is now a call for a developmentally-informed juvenile justice system. In June of 2013, the National Academy of Sciences hosted a panel discussion on the merits of a developmentally-informed juvenile justice system. In that discussion, OJJDP Administrator Robert Listenbee outlined several key features about such a system, one of which was the need to thoughtfully approach the integration of developmental science with trauma-responsive interventions. Further, Mr. Listenbee called for the use of implementation science in achieving this integration by supporting courts and other stakeholders to use – in a meaningful and lasting way – the science that has emerged regarding child and adolescent development over the last 20 years.

What does a developmentally-informed justice system look like? Much remains to be done to hone and implement such a structure, but research in the social and biological sciences provide some strong direction. In short, adolescents are different from adults and need to be treated as such. Developmentally-informed justice systems recognize this fact and institute practices and policies that reflect our understanding of differences that exist across age, gender, culture, etc. For instance, neuroscience has fundamentally changed our work with youth as witnessed by recent Supreme Court decisions that set the stage for embracing “adolescence as a mitigating factor”. Developmental science also teaches us that risk taking is normal in adolescence (and often considered adaptive), that adolescents have a less mature future orientation, and that there is an increased susceptibility to peer influences at this stage of development. This knowledge is emphasized in the National Academy of Sciences Final Report which provides examples of promising practices in working toward meaningful system reform. However, questions remain about how to directly apply this knowledge in the courtroom.

Fortunately, many developmental scientists would argue that a developmentally-informed approach to court practice is inclusive of trauma-informed practice because trauma and development are inextricably linked. In other words, being attuned to what a child, youth, or family needs to promote well-being and healthy development should incorporate consideration of prior adversities regardless of what “type” of case came to the attention of the court. This is exactly what Project ONE was developed to do as the natural evolution of the Model Courts Project.

Project ONE (One Family – One Judge, No Wrong Door, Equal Access to Justice) recognizes that injured parties appear throughout the various systems (dependency, delinquency, domestic relations, and criminal) and that they are often moving between these systems over time. Further, it recognizes the thematic issues that system-involved children, youth, and families tend to encounter regardless of case “type”, such as mental health, substance abuse, domestic violence, educational disengagement, and trauma or adverse experiences.

Approaching injured parties through this lens encourages responsiveness to children’s needs versus processing based on institutional missions, processes, or inertia.

Responding in a developmentally-informed manner is hypothesized to enhance a sense of procedural justice, more likely put in place supports and interventions that are tailored to the needs of children, youth, and families, and that improve outcomes. Only time and rigorous evaluation will confirm if this approach is supported. In the meantime, efforts continue to advance Project ONE in several pilot sites across the nation.

TRAUMA AUDITS

One effort to advance trauma-informed courts led by the NCJFCJ is the development of a protocol to conduct “trauma audits” of juvenile and family courts. A trauma audit is envisioned to thoroughly assess a court’s environment, practice, and policies for being sensitive to trauma, its impact on children and families, and how it may affect court processes. An initial pilot test of such an audit protocol was completed by the NCJFCJ and NCTSN earlier this year in a major jurisdiction in the Western United States, and results have elucidated several important next steps in developing, testing, and refining a protocol that can be taken to scale across the country. Trauma audits, thus far, strive to integrate an institutional ethnographic methodology with observation and file review as critical elements. Further, consumer perspectives are essential,

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and will likely serve as an initial point in evaluating the impact of modifications to environment, practice, and policy made as a result of the audit findings.

Much certainly remains to be done to integrate our current understanding of human development and the impact of trauma into our work in juvenile and family courts across the nation. These are exciting times, however, in that a consensus appears to be emerging that trauma and development are critical to consider in responding to our most vulnerable populations. This coming together of a science-informed call for reform is evidenced not only by the work of courts such as those in Tucson and Gila River, Arizona; Canton, Ohio; Louisville, Kentucky; and others – but by major federal initiatives such as the Defending Childhood Initiative. With thoughtful education, planning, and a sense of urgency it seems that we are at the brink of a paradigm shift in efforts to improve outcomes for all that appear in juvenile and family courts. We no longer need to convince stakeholders that trauma is an issue impacting many of our children and families; instead, we are now striving to aid in the implementation and evaluation of trauma-informed policies and practices. Our conceptual framework for these exciting next steps in trauma-informed practice will be developmentally appropriate, responsive, and grounded in science with the ultimate goal of improving the long-term health and well-being of children and families and disrupting intergenerational cycles of adversity.

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